

भारत का राजपत्र **The Gazette of India**

असाधारण
EXTRAORDINARY

भाग II—खण्ड
PART II—Section 2

अधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 43] नई दिल्ली, बुधवार, अगस्त 12, 1971/श्रावण 21, 1893
No. 43] NEW DELHI, THURSDAY, AUGUST 12, 1971, SRAVANA 21, 1893

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 12th August, 1971:—

BILL NO. 115 OF 1971

A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1971. Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), after section 55, the following section shall be inserted, Insertion of new section 55A.
namely:—

'55A. With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the Income-tax Officer may refer the matter to a Valuation Officer and, where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 Reference to Valuation Officer

27 of 1957.

shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.’

27 of 1957.

Amendment
of section
254.

3. In section 254 of the Income-tax Act, sub-section (1A) shall be omitted.

Insertion
of new
Chapter
XXA.

4. In the Income-tax Act, after Chapter XX, the following Chapter shall be inserted, namely:—

‘CHAPTER XXA

ACQUISITION OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER TO COUNTERACT EVASION OF TAX

Definitions.

269A. In this Chapter, unless the context otherwise requires,—

(a) “apparent consideration”, in relation to any immovable property transferred, means the consideration for such transfer as specified in the instrument of transfer;

(b) “competent authority” means an Assistant Commissioner of Income-tax authorised by the Central Government under section 269B to perform the functions of a competent authority under this Chapter;

(c) “court” means a principal civil court of original jurisdiction unless the Central Government has appointed (as it is hereby authorised to do) any special judicial officer within any specified local limits to perform the functions of the court under this Chapter;

(d) “fair market value”, in relation to any immovable property transferred, means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

(e) “immovable property” means any building or land or any rights in any building or land;

(f) “instrument of transfer” means the instrument of transfer registered under the Registration Act, 1908;

16 of 1908.

(g) “transfer”, in relation to any immovable property, means transfer of such property by way of sale.

Competent
authority.

269B. (1) The Central Government may, by general or special order, published in the Official Gazette,—

(a) authorise as many Assistant Commissioners of Income-tax, as it thinks fit, to perform the functions of a competent authority under this Chapter; and

(b) define the local limits within which the competent authorities shall perform their functions under this Chapter.

(2) In respect of any function to be performed by a competent authority under any provision of this Chapter in relation to any immovable property referred to in section 269C, the competent authority referred to therein shall,

(a) in a case where such property is situate within the local limits of the jurisdiction of only one competent authority, be such competent authority;

(b) in a case where such property is situate within the local limits of the jurisdiction of two or more competent authorities, be the competent authority empowered to perform such functions in relation to such property in accordance with rules made in this behalf by the Board under section 295.

(3) No person shall be entitled to call in question the jurisdiction of a competent authority in respect of any immovable property after the expiry of thirty days from the date on which such competent authority initiated proceedings under section 269D for the acquisition of such property.

(4) Subject to the provisions of sub-section (3), where the jurisdiction of a competent authority is questioned, the competent authority shall, if satisfied with the correctness of the claim, by order in writing, determine the question accordingly and if he is not so satisfied, he shall refer the question to the Board and the Board shall, by order in writing, determine the question.

269C. Where the competent authority has reason to believe that any immovable property of a fair market value exceeding twenty-five thousand rupees has been transferred by a person (hereafter in this Chapter referred to as the transferor) to another person (hereafter in this Chapter referred to as the transferee) for an apparent consideration which is less than the fair market value of the property and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of—

Immovable property in respect of which proceedings for acquisition may be taken.

(a) facilitating the reduction or evasion of the liability of the transferor to pay tax under this Act in respect of any income arising from the transfer; or

(b) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for the purposes of the Indian Income-tax Act, 1922, or this Act or the Wealth-tax Act, 1957,

the competent authority may, subject to the provisions of this Chapter, initiate proceedings for the acquisition of such property under this Chapter.

269D. (1) The competent authority shall initiate proceedings for the acquisition, under this Chapter, of any immovable property referred to in section 269C by notice to that effect.
Official Gazette:

Provided that no such proceedings shall be initiated in respect of any immovable property after the expiry of six months from—

(i) the date of receipt by the competent authority of the statement in respect of the property forwarded by the registering officer under sub-section (2) of section 269N, or

(ii) the date of receipt by the competent authority of a true copy of the said statement forwarded by the transferee under sub-section (3) of that section,

whichever date is earlier:

Provided further that—

(a) in a case where it is determined under sub-section (4) of section 269B by the competent authority who has initiated proceedings for the acquisition of any immovable property under this Chapter or by the Board that such competent authority has no jurisdiction to initiate such proceedings, the competent authority having jurisdiction may initiate such proceedings within—

(i) the period of six months specified in the foregoing proviso; or

(ii) a period of thirty days from the date of such determination,

whichever period expires later;

(b) in a case where proceedings for the acquisition of any immovable property under this Chapter could not be initiated during any period of time by reason of any injunction or order of any court prohibiting the initiation of such proceedings or preventing the examination of documents or other materials required to be examined for the purpose of determining whether such proceedings should be initiated, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded in computing the period during which such proceedings may be initiated under this sub-section.

Competent authority shall—

a notice under sub-section (1) in respect of any property to be served on the transferee, the person in possession of the property if the transferee is not in occupation or the person whom the competent authority has designated as the person in possession of the property;

and a copy thereof to a conspicuous place published—

a copy thereof to a conspicuous place

in respect of any immovable property to a copy thereof to a conspicuous place by making known the substance of such

269E. (1) The transferor or the transferee of, or any person interested in, the immovable property in respect of which a notice has been published in the Official Gazette under sub-section (1) of section 269D may, within thirty days after the date of such publication, object to the acquisition of the property. Objections.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing.

(3) For the purposes of sub-section (1), a person who would be entitled to claim an interest in compensation if the immovable property referred to in that sub-section were acquired under this Chapter shall be deemed to be a person interested in such immovable property.

269F. (1) The competent authority shall fix a day and place for the hearing of the objections preferred under section 269E against the acquisition under this Chapter of any immovable property, and shall give notice of the same to every person who has preferred such objection: Hearing of objections.

Provided that such notice shall also be given to the transferee of such property even if he has not preferred any such objection.

(2) Every person to whom a notice is given under sub-section (1) shall have the right to be heard either in person or by an authorised representative at the hearing of the objections.

(3) The competent authority shall have the power to adjourn the hearing of the objections from time to time.

(4) The competent authority may, before disposing of the objections, make such further inquiry as he thinks fit.

(5) The decision of the competent authority in respect of the objections heard shall be in writing and shall state the reasons for the decision with respect to each objection.

(6) If, after hearing the objections, the competent authority is satisfied that,—

(a) the immovable property to which the objections relate is of a fair market value exceeding twenty-five thousand rupees;

(b) such property has been transferred for an apparent consideration which is less than its fair market value; and

(c) the consideration for such transfer as agreed to between the parties has not been fully stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of section 269C,

he may, after obtaining the approval of the Commissioner, make an order for the acquisition of the property under this Chapter.

Explanation.—In this sub-section, “Commissioner”, in relation to a competent authority, means such Commissioner as the Board may, by general or special order in writing, specify in this behalf.

(7) If the competent authority is not satisfied as provided in sub-section (6), he shall, by order in writing, declare that the property will not be acquired under this Chapter.

(8) In any proceedings under this section in respect of any immovable property,—

(a) where the property has been transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been fully stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of section 269C;

(b) no objection shall be entertained on the ground that although the apparent consideration for the property is less than the fair market value of the property on the date of the execution of the instrument of transfer, the consideration as agreed to between the parties has been fully stated in the instrument of transfer because such consideration was agreed to having regard to the price that such property would have ordinarily fetched on sale in the open market on the date of the conclusion of the agreement to sell the property, except where such agreement has been registered under the Registration Act, 1908.

26 of 1908.

Appeal.

269G. (1) Any person aggrieved by the order for the acquisition of any immovable property made by the competent authority under section 269F may appeal to the Board within thirty days of the date of such order:

Provided that the Board may, on an application made in this behalf before the expiry of the said period of thirty days, permit, by order, the appeal to be presented within such further period as may be specified therein if the applicant satisfies the Board that he has sufficient cause for not being able to present the appeal within the said period of thirty days.

(2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The Board shall fix a day and place for hearing of the appeal, and shall give notice of the same to the appellant and to the competent authority against whose order the appeal is preferred.

(4) The following shall have the right to be heard at the hearing of the appeal, namely:—

(a) the appellant, either in person or by an authorised representative;

(b) the competent authority, either in person or by a representative.

(5) The Board shall have the power to adjourn the hearing of the appeal from time to time.

(6) The Board may, before disposing of any appeal, make such further inquiry as it thinks fit, or may direct the competent authority

to make further inquiry and report the result of the same to the Board.

(7) The Board may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Board is satisfied that the omission of such ground is not wilful or unreasonable.

(8) The order of the Board disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(9) On the disposal of the appeal, the Board shall communicate the order passed by it to the appellant and to the competent authority.

269H. (1) As soon as may be after the order for acquisition of any immovable property made under sub-section (6) of section 269F becomes final, the competent authority may, by notice in writing, order any person who may be in possession of the immovable property to surrender or deliver possession thereof to the competent authority or any other person duly authorised in writing by the competent authority in this behalf, within thirty days of the date of the service of the notice.

Vesting of
property in
Central
Government

Explanation.—For the purposes of this sub-section, an order for acquisition of any immovable property made under sub-section (6) of section 269F becomes final,—

(a) where no appeal has been presented against such order under sub-section (1) of section 269G within the period (whether fixed originally or on extension) during which such appeal may be presented under that sub-section, upon the expiry of such period;

(b) where such appeal has been presented within the period referred to in clause (a), upon the confirmation in such appeal of the order for acquisition of such property.

(2) If any person refuses or fails to comply with the notice under sub-section (1), the competent authority or other person duly authorised by the competent authority under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(4) When the possession of the immovable property is surrendered or delivered under sub-section (1) to the competent authority or a person duly authorised by him in that behalf or, as the case may be, when the possession thereof is taken under sub-section (2) or sub-section (3) by such authority or person, the property shall vest absolutely in the Central Government free from all encumbrances:

Provided that nothing in this sub-section shall operate to discharge the transferee or any other person (not being the Central Government) from liability in respect of such encumbrances and, notwithstanding anything contained in any other law, such liability may be enforced against the transferee or such other person by a suit for damages.

Compensa-
tion.

269I. (1) Where any immovable property is acquired under this Chapter, the Central Government shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of the apparent consideration for its transfer and fifteen per cent. of the said amount.

(2) Notwithstanding anything contained in sub-section (1),—

(a) where, after the transfer to the transferee of the property referred to in that sub-section but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable under that sub-section shall be reduced by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer;

(b) where, after the transfer of such property to the transferee but before the date of publication in the Official Gazette of the notice in respect of such property under sub-section (1) of section 269D, any improvements have been made to the property, whether by way of addition or alteration or in any other manner, the compensation payable in respect of such property under sub-section (1) shall be increased by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount spent for making such improvements.

(3) Every reference under clause (a) or clause (b) of sub-section (2) shall be made within thirty days of the date on which the immovable property to which it relates becomes vested in the Central Government or within such further period as the court may, on an application made in this behalf before the expiry of the said period and on being satisfied that there is sufficient cause for doing so, allow and such reference shall state clearly the compensation payable under sub-section (1) in respect of the immovable property and the amount by which, according to the estimate of the competent authority, such compensation shall be reduced under clause (a) or, as the case may be, increased under clause (b), of sub-section (2).

1 of 1894.

(4) The amount by which the compensation payable under sub-section (1) in respect of any immovable property acquired under this Chapter falls short of the amount which would have been payable as compensation if that property had been acquired under the Land Acquisition Act, 1894, after the issue of a preliminary notice under section 4 of that Act on the date of the publication in the Official Gazette of the notice in respect of the property under sub-section (1) of section 269D, shall be deemed to have been realised by the Central Government as a penalty from the transferee for being a party to a transfer with such object as is referred to in clause (a) or clause (b) of section 269C, and no penalty shall be levied for any assessment year on the transferee—

(a) under clause (iii) of sub-section (1) of section 271, for concealing the particulars or furnishing inaccurate particulars of so much of his income as is utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the income of the transferee;

27 of 1957.

(b) under clause (iii) of sub-section (1) of section 18 of the Wealth-tax Act, 1957, for concealing the particulars or furnishing inaccurate particulars of so much of his assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such assets are included in the net wealth of the transferee.

269J. (1) The amount of compensation payable in accordance with the provisions of section 269I for the acquisition of any immovable property shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under sub-section (4) of section 269H: Payment or deposit of compensation.

Provided that in any case where a reference is or has to be made under sub-section (2) of section 269I to the court for the determination of the amount by which the compensation payable under sub-section (1) of that section shall be reduced or increased, the amount of such compensation as reduced or increased by the amount estimated in that behalf by the competent authority for the purposes of such reference shall be tendered as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the compensation amongst persons claiming to be entitled thereto, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer such dispute for the decision of the court and the decision of the court thereon shall be final.

(3) Notwithstanding anything contained in sub-section (1), if the persons entitled to compensation do not consent to receive it, or if there is no person competent to alienate the immovable property, or if there is any dispute as to the title to receive the compensation, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer the matter for the decision of the court:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the compensation for any immovable property acquired under this Chapter to pay the same to the person lawfully entitled thereto.

(4) If the Central Government fails to tender under sub-section (1) or deposit under sub-section (2) or sub-section (3) the whole or any part of the compensation required to be tendered or deposited thereunder within thirty days of the date on which the immovable property to which the compensation relates becomes vested in the Central Government under sub-section (4) of section 269H, the Central Government shall be liable to pay simple interest at the rate of nine per cent. per annum reckoned from the day immediately following the date of expiry of the said period up to the date on which it so tenders or deposits such compensation or, as the case may be, such part of the compensation.

(5) Where any amount of compensation (including interest, if any, thereon) has been deposited in the court under this section, the court may, either of its own motion or on an application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

269K. (1) The competent authority may,—

(a) for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require a Valuation Officer to determine the fair market value of such property and report the same to him;

(b) for the purpose of estimating the amount by which the compensation payable under sub-section (1) of section 269I in respect of any immovable property may be reduced or, as the case may be, increased under clause (a) or clause (b) of sub-section (2) of that section, require the Valuation Officer to make such estimate and report the same to him.

(2) The Valuation Officer to whom a reference is made under clause (a) or clause (b) of sub-section (1) shall, for the purpose of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.

(3) Notwithstanding anything contained in this Chapter, any person who is entitled to or required to attend before a competent authority or the Board in connection with any matter relating to the valuation of any immovable property for the purposes of this Chapter or the estimation of the amount by which the compensation payable for the acquisition of any immovable property under sub-section (1) of section 269I may be reduced or, as the case may be, increased in accordance with the provisions of clause (a) or clause (b) of sub-section (2) of that section, may, at his option and expense, be assisted by a registered valuer.

Assistance
by Valua-
tion Officers
and regis-
tered
valuers.

(4) if in an appeal under section 269G against the order for acquisition of any immovable property, the fair market value of such property is in dispute, the Board shall, on a request being made in this behalf by the competent authority, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority.

Explanation.—In this section, “registered valuer” and “Valuation Officer” shall have the meanings respectively assigned to them in clause (aaa) and clause (r) of section 2 of the Wealth-tax Act, 1957.

27 of 1957.

269L. The Board and the competent authority shall have, for the purposes of this Chapter, all the powers that a Commissioner has, for the purposes of this Act, under section 131.

Powers of Board and competent authority.

269M. With a view to rectifying any mistake apparent from the record,—

Rectification of mistakes.

(a) the competent authority may amend any order made by him under this Chapter at any time before the time for presenting an appeal against such order has expired, either of his own motion or on the mistake being brought to his notice by any person affected by the order;

(b) the Board may amend any order made by it under this Chapter within thirty days from the date of such order, either of its own motion or on the mistake being brought to its notice by the competent authority or the appellant:

Provided that if any amendment proposed to be made under clause (a) or clause (b) is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity to represent his case.

269N. (1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908, shall register any document which purports to transfer any immovable property belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed, is furnished to him along with the instrument of transfer.

16 of 1908.

Statement to be furnished in respect of transfers of immovable property.

(2) The registering officer shall, at the end of every fortnight, forward one set of the statements received by him under sub-section (1) during the fortnight, to the competent authority.

(3) The transferee of any property referred to in sub-section (1) may, at his option, forward to the competent authority a true copy of the statement furnished in respect of such property under sub-section (1).

269O. Notwithstanding anything contained in the Land Acquisition Act, 1894, or any corresponding law for the time being in force, no immovable property referred to in section 269C shall be acquired for any purpose of the Union under that Act or such law unless the time for initiation of proceedings for the acquisition of such property under this Chapter has expired without such proceedings having been initiated or unless the competent authority has declared that such property will not be acquired under this Chapter.

1 of 1894.

Properties liable for acquisition under this Chapter not to be acquired under other laws.

Saving.

269P. The provisions of this Chapter shall not extend to the State of Jammu and Kashmir.

Insertion of new section 281A.

5. In the Income-tax Act, after section 281, the following section shall be inserted, namely:—

Effect of failure to furnish information in respect of properties held *benami*.

“281A. (1) No suit to enforce any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be instituted in any court by or on behalf of a person (hereafter in this section referred to as the claimant) claiming to be the real owner of such property unless,—

(a) the income, if any, from such property has been disclosed in any return of income furnished by the claimant under this Act; or

(b) such property has been disclosed in any return of net wealth furnished by the claimant under the Wealth-tax Act, 1957; or

27 of 1957.

(c) notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Income-tax Officer.

(2) The Income-tax Officer shall, on an application made by any person in the prescribed manner and on payment of the prescribed fees, issue for the purposes of a suit referred to in sub-section (1), relevant extracts from the return furnished by such person under this Act or the Wealth-tax Act, 1957, or a certified copy of any notice given by such person under clause (c) of sub-section (1), within fourteen days from the date of receipt of the application therefor.

27 of 1957.

(3) This section shall not apply to any suit of a value not exceeding two thousand rupees which is tried by,—

(a) a Court of Small Causes constituted under the Presidency Small Cause Courts Act, 1882, or the Provincial Small Cause Courts Act, 1887; or

1st of 1882.
9 of 1887.

(b) a court invested with the jurisdiction of a Court of Small Causes, by or under any enactment for the time being in force, in the exercise of such jurisdiction.”

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Amendment of section 2.

6. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),—

27 of 1957

(a) after clause (oa), the following clause shall be inserted, namely:—

“(oaa) “registered valuer” means a person registered as a valuer under section 34AB;

(b) for clause (r), the following clause shall be substituted, namely:—

“(r) “Valuation Officer” means a person appointed as a Valuation Officer under section 12A, and includes a Regional Valuation

Officer, a District Valuation Officer and an Assistant Valuation Officer;'.

7. In section 7 of the Wealth-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment
of section 7.

“(3) Notwithstanding anything contained in sub-section (1), where the valuation of any asset is referred by the Wealth-tax Officer to the Valuation Officer under section 16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.”.

8. After section 12 of the Wealth-tax Act, the following section shall be inserted, namely: -

Insertion of
new section
12A.

“12A. (1) **The Central Government may appoint as many Valuation Officers as it thinks fit.**

Appointment
of Valuation
Officers.

(2) **Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a wealth-tax authority may appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.”.**

9. After section 16 of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion of
new section
16A.

“16A. (1) For the purpose of making an assessment (including an assessment in respect of any assessment year commencing before the date of coming into force of this section) under this Act, the Wealth-tax Officer may refer the valuation of any asset to a Valuation Officer.

Reference to
Valuation
Officer.

(2) For the purpose of estimating the value of any asset in pursuance of a reference under sub-section (1), the Valuation Officer may serve on the assessee a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

(3) Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the assessee under section 14 or section 15, he shall pass an order in writing to that effect and send a copy of his order to the Wealth-tax Officer and to the assessee.

(4) Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the assessee under section 14 or section 15, or where the asset is not disclosed or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the assessee intimating the value which he proposes to estimate and giving the assessee an opportunity to state, on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the assessee may rely in support of his objections.

(5) On the date specified in the notice under sub-section (4), or as soon thereafter as may be, after hearing such evidence as the assessee may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all relevant material which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the Wealth-tax Officer and to the assessee.

(6) On receipt of the order under sub-section (3) or sub-section (5) from the Valuation Officer, the Wealth-tax Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer."

Amendment
of section 23.

10. In section 23 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) after clause (h), the following clause shall be inserted, namely:—

"(ha) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or";

(ii) in clause (i), for the words "Wealth-tax Officer", the words "Wealth-tax Officer or Valuation Officer" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If the valuation of any asset is objected to in an appeal under clause (a) of sub-section (1), the Appellate Assistant Commissioner shall—

(a) in a case where such valuation has been made by a Valuation Officer under section 16A, give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the Wealth-tax Officer.";

(c) in sub-section (4), in clause (b), for the words "Wealth-tax Officer", the words "Wealth-tax Officer or, as the case may be, the Valuation Officer" shall be substituted.

Amendment
of section 24.

11. In section 24 of the Wealth-tax Act,—

(a) in sub-section (5), for the words "Provided that", the following shall be substituted, namely:—

"Provided that if the valuation of any asset is objected to, the Appellate Tribunal shall,—

(a) in a case where such valuation has been made by a Valuation Officer under section 16A, also give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard also to any Valuation Officer nominated for the purpose by the Wealth-tax Officer:

Provided further that”;

(b) sub-sections (6), (7), (8), (8A) and (8B) shall be omitted.

12. In section 26 of the Wealth-tax Act, in sub-section (3), for the words, brackets and figures “sub-sections (3) and (5) to (10) inclusive”, the words, brackets and figures “sub-sections (3), (5), (9) and (10)” shall be substituted. Amendment of section 26.

13. In the Wealth-tax Act, after Chapter VIIA, the following Chapter shall be inserted, namely:— Insertion of new Chapter VII B.

“CHAPTER VIIB

REGISTERED VALUERS

34AA. Notwithstanding anything contained in this Act, any assessee who is entitled to or required to attend before any wealth-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset may, at his option and expense, be assisted by a registered valuer. Assistance by registered valuers.

34AB. (1) The Board shall maintain a register to be called the Register of Valuers in which shall be entered the names and addresses of persons registered under sub-section (2) as valuers. Registration of valuers.

(2) Any person who possesses the qualifications prescribed in this behalf may apply to the Board in the prescribed form for being registered as a valuer under this section:

Provided that different qualifications may be prescribed for valuers of different classes of assets.

(3) Every application under sub-section (2) shall be verified in the prescribed manner, shall be accompanied by such fees as may be prescribed and shall contain a declaration to the effect that the applicant will—

(i) make an impartial and true valuation of any asset which he may be required to value;

(ii) furnish a report of such valuation in the prescribed form;

(iii) charge fees at a rate not exceeding the rate or rates prescribed in this behalf;

(iv) not undertake valuation of any asset in which he has a direct or indirect interest.

(4) The report of valuation of any asset by a registered valuer shall be in the prescribed form and be verified in the prescribed manner.

34AC. (1) No person either alone or in partnership with any other person, shall practise, describe or hold himself out as a registered valuer for the purposes of this Act or permit himself to be so described or held out, unless he is registered as a valuer or, as the case may be, unless he and all his partners are so registered under this Chapter. Restrictions on practice as registered valuer

(2) No company or other body corporate shall practise, describe itself or hold itself out as registered valuers for the purposes of this Act or permit itself to be so described or held out.

Removal
from
register of
names of
valuers and
restoration.

34AD. (1) The Board may remove the name of any person from the register of valuers where it is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it thinks fit to make,—

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of material fact;

(ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which, in the opinion of the Board, renders him unfit to be kept in the register.

(2) The Board may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom.”.

Amendment
of section
35.

14. In section 35 of the Wealth-tax Act,—

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) the Valuation Officer may amend any order passed by him under section 16A;”;

(b) in sub-section (3), in clause (b), for the words “Appellate Assistant Commissioner”, the words “Valuation Officer or the Appellate Assistant Commissioner” shall be substituted;

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any amendment made by the Valuation Officer under clause (aa) of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the Wealth-tax Officer who shall thereafter proceed to amend the order of assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (6) shall apply accordingly.”;

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

“(7A) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the Wealth-tax Officer at any time before the expiry of one year from the date of the order of the Valuation Officer under this section.”.

Amendment
of section 36.

15. In section 36 of the Wealth-tax Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

“(2B) If a person makes a statement in a verification mentioned in section 34AB which is false, or which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to six months or with fine.”.

16. In section 37 of the Wealth-tax Act,—

Amendment
of section 37.

(a) in sub-section (1), for the words "The Wealth-tax Officer," the words "The Wealth-tax Officer, Valuation Officer," shall be substituted;

(b) in sub-section (3), in the proviso, for the words "a Wealth-tax Officer", the words "a Wealth-tax Officer or a Valuation Officer" shall be substituted.

17. After section 38 of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion of
new section
38A.

"38A. (1) For the purposes of this Act, a Valuation Officer or any overseer, surveyor or assessor authorised by him in this behalf may, subject to any rules made in this behalf and at such reasonable times as may be prescribed,—

Powers of
Valuation
Officer, etc.

(a) enter any land within the limits of the area assigned to the Valuation Officer, or

(b) enter any building or other place occupied by any person in connection with whose assessment a reference has been made under section 16A to the Valuation Officer, or

(c) inspect any asset in respect of which a reference under section 16A has been made to the Valuation Officer,

and require any person in charge of, or in occupation or possession of, such land, building or other place or asset to afford him the necessary facility to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating to such land, building or other place or asset:

Provided that no Valuation Officer, overseer, surveyor or assessor shall enter any building or place referred to in clause (b) or inspect any asset referred to in clause (c) (unless with the consent of the person in charge of, or in occupation or possession of such building, place or asset) without previously giving to such person at least two days notice in writing of his intention to do so.

(2) If a person who, under sub-section (1), is required to afford any facility to the Valuation Officer or the overseer, surveyor or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers under sub-sections (1) and (2) of section 37 for enforcing compliance of the requirements made."

18. In section 46 of the Wealth-tax Act, in sub-section (2), for clause (e), the following clauses shall be substituted, namely:—

Amendment
of section 46.

"(e) the areas within which Valuation Officers may exercise jurisdiction;

(ee) the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers under sub-section (1) of section 38A;"

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

Amendment of section 2. 19. In section 2 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), clause (xxv) shall be omitted. 18 of 1958.

Amendment of section 15. 20. In section 15 of the Gift-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

‘(6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, the Gift-tax Officer may refer to a Valuation Officer, the valuation of any property transferred by way of gift, and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957, shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth tax Officer under sub-section (1) of section 16A of that Act.

27 of 1957.

Explanation.—In this sub-section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.’

Amendment of section 23. 21. In section 23 of the Gift-tax Act, sub-sections (6), (7) and (8) shall be omitted.

Amendment of section 25. 22. In section 25 of the Gift-tax Act, in sub-section (3), for the words, brackets and figures “sub-sections (3) and (5) to (10) inclusive”, the words, brackets and figures “sub-sections (3), (5), (9) and (10)” shall be substituted.

CHAPTER V

MISCELLANEOUS

Saving and special provision. 23. (1) Notwithstanding the omission of sub-section (1A) of section 254 of the Income-tax Act, 1961, by section 3, every requisition by an appellant for the making of a reference under that sub-section and every reference made under that sub-section before such omission shall be dealt with as if the said sub-section had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

43 of 1961.

(2) Notwithstanding the omission of sub-sections (6), (7), (8), (8A) and (8B) of section 24 of the Wealth-tax Act, 1957, by clause (b) of section 11, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

27 of 1957.

(3) Notwithstanding the omission of sub-sections (6), (7) and (8) of section 23 of the Gift-tax Act, 1958, by section 21, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

18 of 1958.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958. The following are the objects of the Bill: —

(1) to counter evasion of tax through understatement of the value of immovable property in sale deeds and also to check the circulation of black money, by empowering the Central Government to acquire immovable properties, including agricultural lands, at prices which correspond to those recorded in sale deeds;

(2) to curb the wide-spread practice of *benami* holding of property with a view to tax evasion, by debarring the real owner from enforcing his claim to such property in a court of law unless he has declared the income from that property or the property itself for purposes of income-tax and wealth-tax or has given notice of his claim to the property to the income-tax authorities; and

(3) to improve the present arrangements for valuation, for purposes of income-tax, wealth-tax and gift-tax laws, of buildings, lands and other assets, by augmenting the set up of the official valuation machinery and enhancing its powers on the one hand, and by bringing about better regulation and discipline over non-official valuers, on the other.

For achieving the first object, the Bill (*vide* clause 4) seeks to insert a new Chapter XXA in the Income-tax Act, 1961. A new section 281A (*vide* clause 5) is proposed to be inserted in the same Act for achieving the second object. The remaining provisions of the Bill are for giving effect to the third object.

2. The Notes on clauses explain the various provisions of the Bill.

Y. B. CHAVAN.

NEW DELHI;

The 5th August, 1971.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274(1) OF THE CONSTITUTION OF INDIA

[Copy of letter No. 132(2)/71-TPL, dated the 5th August, 1971 from Shri Y. B. Chavan, Minister of Finance to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Taxation Laws (Amendment) Bill, 1971, has recommended under articles 117(1) and 274(1) of the Constitution the introduction of the Bill in Lok Sabha and under article 117(3) of the Constitution its consideration by Lok Sabha.

Notes on clauses

Clause 2 seeks to insert a new section 55A in the Income-tax Act to provide for reference to the Valuation Officer. Under the new section, the Income-tax Officer may, with a view to ascertaining the fair market value of a capital asset for purposes of taxation of the capital gains arising from the transfer of such asset, refer the matter of valuation to a Valuation Officer. Where such reference is made, the provisions contained in sub-sections (2), (3), (4), (5) and (6) of section 16A of the Wealth-tax Act, relating to reference of the valuation of any asset by the Wealth-tax Officer to the Valuation Officer (under the amendment proposed in clause 9 of the Bill) together with the ancillary provisions in section 23(1) (ha) and (i), (3A) and (4), section 24(5), section 34AA, section 35 and section 37 of that Act (proposed to be made under the amendments in clauses 10, 11, 13, 14 and 16 of the Bill) shall, with necessary modifications, apply to such reference as they apply in relation to a reference made by the Wealth-tax Officer under section 16A(1) of that Act.

Clause 3 seeks to amend section 254 of the Income-tax Act so as to omit sub-section (1A) of that section, which relates to the reference of the question of the disputed value of a capital asset to the arbitration of two valuers at the stage of appeal to the Appellate Tribunal.

Clause 4 seeks to introduce a new Chapter XXA in the Income-tax Act containing provisions for acquisition of immovable properties by the Central Government to counteract evasion of taxes. The proposed new Chapter will contain 16 sections from sections 269A to 269P.

Section 269A.—This new section relates to definitions.

The expression “apparent consideration”, in relation to any immovable property which is transferred, is being defined to mean the consideration for such transfer as specified in the instrument of transfer registered under the Registration Act, 1908.

“Competent authority” is being defined to mean an Assistant Commissioner of Income-tax who has been authorised by the Central Government to be a competent authority for the purposes of the new Chapter.

“Court” will mean a principal civil court of original jurisdiction and include any special judicial officer appointed by the Central Government to perform the functions of the Court under the new Chapter.

“Fair market value” is being defined to mean the price which the property in question would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer.

“Immovable property” is being defined to mean any building or land or any rights in any building or land.

“Transfer”, in relation to any property, is being defined to mean transfer of such property by way of sale.

Section 269B.—This new section relates to the appointment and jurisdiction of competent authorities and makes it clear that where the property in question is situated within the local limits of the jurisdiction of two or more competent authorities, the competent authority in relation to such property will be the one who is empowered to perform the functions in accordance with rules to be made by the Central Board of Direct Taxes in this behalf.

It further provides that the jurisdiction of a competent authority cannot be called in question after the expiry of thirty days from the date on which such competent authority has initiated proceedings under section 269D for the acquisition of any immovable property.

It also enables the competent authority to determine by order in writing the question of jurisdiction raised within the period of thirty days referred to above. If he is not satisfied with the correctness of the claim, the competent authority is required to refer the question to the Board, who will determine the same by order in writing.

Section 269C.—This new section deals with immovable properties in respect of which proceedings for acquisition may be taken. Under the provisions of this section, a competent authority will have the power to initiate proceedings for the acquisition of any immovable property which has been transferred, if the competent authority has reason to believe that—

(i) the fair market value of the property in question exceeds Rs. 25,000;

(ii) the property has been transferred for an apparent consideration which is less than the fair market value of the property; and

(iii) the consideration for the transfer of the property as agreed to between the parties has not been truly stated in the instrument of transfer with the object of either—

(a) facilitating the reduction or evasion of the liability of the transferor to pay tax in respect of any income (whether by way of capital gains or otherwise) arising from the transfer, or

(b) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for purposes of the Income-tax Act, 1961, or the Indian Income-tax Act, 1922, which preceded it or the Wealth-tax Act, 1957.

Section 269D.—This new section seeks to lay down the procedure for the issue of a preliminary notice for the acquisition of immovable property under the new Chapter. Under this section, proceedings for acquisition of immovable property under this Chapter will be initiated by the competent authority by publishing a notice to that effect in the Official Gazette. Ordinarily such proceedings will not be initiated in respect of any property after the expiry of a period of six months from the date of receipt by the competent authority of the statement in respect of the property under the proposed section 269N(2) from the registering officer concerned or the date of receipt of a true copy of the said statement from the transferee, whichever date is earlier.

Section 269E.—This new section seeks to provide for the filing of objections to the acquisition of property. The transferor or the transferee of the property in question, as also any other person who is interested in such property, will have the right to file, in writing, any objection with the competent authority before the expiry of a period of thirty days from the date of publication of the notice of acquisition.

Section 269F.—The new section 269F seeks to lay down the procedure for the hearing of objections to the acquisition of property. Under this provision, the competent authority will be required to fix a date and place for the hearing of objections. All persons who have been given the notice of hearing will have the right to be heard either in person or by an authorised representative. The competent authority will have the power to adjourn the hearing of objections from time to time and to make such further enquiry as he may deem fit. After hearing the objections, the competent authority will make a written order stating the reasons for his decision with respect to each objection. If, after hearing the objections, the competent authority is satisfied that—

(i) the immovable property to which the objections relate is of a fair market value exceeding Rs. 25,000;

(ii) such property has been transferred for an apparent consideration which is less than its fair market value; and

(iii) the consideration for such transfer as agreed to between the parties has not been fully stated in the instrument of transfer with such object as is referred to in new section 269C,

he will have the power to make an order for the acquisition of the property in question. An order of acquisition will, however, be made only after obtaining the approval of the Commissioner of Income-tax specified in this behalf by the Board. Where, however, the competent authority is not satisfied on any of the three points mentioned above, the competent authority will, by an order in writing, declare that the property will not be acquired under the new Chapter.

Sub-section (8) of new section 269F seeks to lay down a rule of evidence to the effect that where the property in question has been transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been fully stated in the instrument of transfer with such object as is referred to in section 269C. That sub-section also prohibits the entertainment of any objection on the ground that although the apparent consideration for the property is less than the fair market value of the property on the date of execution of the instrument of transfer, the consideration as agreed to between the parties has been fully stated in the instrument because such consideration was agreed to having regard to the price that such property would have ordinarily fetched on sale in the open market on the date of the conclusion of the agreement to sell the property. This prohibition will not, however, apply in a case where the agreement to sell the property is registered under the Registration Act, 1908.

Section 269G.—The new section 269G seeks to provide for appeal to the Board against orders of acquisition made by competent authorities and contains detailed provisions in this behalf.

Section 269H.—This new section seeks to make provisions for the vesting of the property in question in the Central Government. After an order of acquisition in respect of any immovable property has become final, the competent authority will have the power to order, by notice in writing, any person who may be in possession of the immovable property to surrender or deliver possession thereof to him or to any other person duly authorised by him in this behalf. In the event of refusal or failure to deliver possession of the property, the competent authority or the person duly authorised by him may take possession of the property and may, for that purpose, use such force as may be necessary and also requisition the services of any police officer. Provision is made for the vesting of the property absolutely in the Central Government free from all encumbrances, but this will not discharge the transferee or any other person (not being the Central Government) from any liability in respect of encumbrances in respect of the property and such liability will be enforceable against the transferee or such other person by a suit for damages.

Section 269I.—This new section seeks to lay down the quantum of compensation payable by the Central Government for acquisition of properties.

Sub-section (1) provides that the compensation payable by the Central Government for the acquisition of the property in question will be equal to the aggregate of the amount of the consideration stated in the instrument of transfer and 15 per cent. of such consideration.

Sub-section (2) provides that where, after the transfer of the property in question to the transferee but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable will be reduced by such amount as may be agreed to between the competent authority and the person entitled to receive the compensation within fifteen days of such vesting. In the absence of such an agreement, the reduction will be equal to an amount which the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised in this behalf by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer. Further, in a case where, after the transfer of the property in question to the transferee but before the date of publication in the Official Gazette of the notice of acquisition under section 269D(1), any improvements have been made to the property, whether by way of additions or alterations or in any other manner, the compensation will be increased by such amount as may be agreed to between the competent authority and the persons entitled to receive the compensation within fifteen days of such vesting. In the absence of such an agreement, the increase in the amount of compensation will be equal to a sum which the court may, on a reference made to it in this behalf by the competent authority or any other person duly authorised in this behalf by the competent authority, determine to be the amount spent for making such improvements.

Sub-section (3) provides that a reference to the court under sub-section (2) will be made within thirty days of the date on which the

immovable property in question becomes vested in the Central Government or within such period as the court may, on an application made in this behalf before the expiry of the said period, allow. A reference to the court will clearly state the compensation payable under sub-section (1), as also the amount by which, according to the estimate of the competent authority, such compensation should be reduced or enhanced under sub-section (2).

Sub-section (4) provides that the amount by which the compensation payable under sub-section (1) in respect of any property acquired under the new Chapter falls short of the amount which would have been payable as compensation had such property been acquired under the Land Acquisition Act, 1894 will be regarded as a penalty realised from the transferee for being a party to a transfer with the object of either (a) facilitating the reduction or evasion of the liability of the transferor to pay tax in respect of any income arising from the transfer, or (b) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for purposes of the Income-tax Act, 1961 or the Indian Income-tax Act, 1922 which preceded it or the Wealth-tax Act, 1957. It further provides that where a property is acquired under the new Chapter, the transferee will not be liable to penalties for the following defaults under the Income-tax Act, 1961 and the Wealth-tax Act, 1957, namely:—

(a) penalty under section 271(1) (iii) of the Income-tax Act, for concealing the particulars or furnishing inaccurate particulars of so much of the transferee's income as is utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the total income of the transferee;

(b) penalty under section 18(1) (iii) of the Wealth-tax Act, for concealing the particulars or furnishing inaccurate particulars of so much of the transferee's assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the consideration specified in the instrument of transfer of the property, notwithstanding that such assets are included in the net wealth of the transferee.

Section 269J.—This new section contains the necessary provisions for the payment or deposit of compensation in respect of the property acquired and follows, so far as may be, the provisions of the Land Acquisition Act in this behalf.

Section 269K.—This section deals with assistance by Valuation Officers and registered valuers.

Sub-section (1) of the said section enables the competent authority to requisition the services of a Valuation Officer to ascertain the market value of immovable property in order to decide whether proceedings for the acquisition of such property should be initiated, and subsequently for deciding whether the property is to be acquired. It also enables the competent authority to require the Valuation Officer to estimate the amount by which the compensation payable under section 269I (1) in

respect of any immovable property may be reduced, or, as the case may be, increased under section 269I (2).

Sub-section (2) confers on the Valuation Officer, for the purpose of dealing with a reference made under sub-section (1), all the powers that a Valuation Officer has under section 38A of the Wealth-tax Act, 1957 (which is proposed to be inserted under clause 17 of the Bill).

Sub-section (3) enables any person, who is entitled or required to attend before a competent authority or the Board in connection with any matter relating to the valuation of immovable property or with regard to the estimation of the amount by which compensation payable may be reduced or increased, to be assisted by a registered valuer at his option and expense.

Sub-section (4) enables the Board to give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority, in any appeal under section 269G where the fair market value of any property is in dispute. For the purposes of this section, the expressions "registered valuer" and "Valuation Officer" are being given the same meanings as are respectively assigned to them under section 2 of the Wealth-tax Act, 1957.

Section 269L.—Section 269L seeks to confer on the Board and the competent authority all the powers regarding discovery and production of evidence, etc., which a Commissioner of Income-tax has under section 131 of the Income-tax Act.

Section 269M.—This new section seeks to empower the Board and the competent authority to rectify mistakes apparent from the record. Where the order of rectification is likely to affect any person prejudicially, such person will be given a reasonable opportunity to represent his case.

Section 269N.—This new section provides for the furnishing of statements in respect of transfers of immovable property.

Sub-section (1) will preclude registering officers appointed under the Registration Act, 1908, from registering any document which purports to transfer any immovable property unless the relevant instrument of transfer is accompanied by two copies of a statement in respect of such transfer in the form to be prescribed by the Board in the Income-tax Rules, and verified in such manner to be prescribed in the Income-tax Rules and would set forth such particulars as may be prescribed in the said rules.

Sub-section (2) provides that every registering officer shall forward one set of the statements received by him under sub-section (1) to the competent authority every fortnight.

Sub-section (3) provides that the transferee of any immovable property may, at his option, forward to the competent authority a true copy of the statement furnished in respect of such property under sub-section (1).

Section 269O.—This new section seeks to provide that no immovable property referred to in the proposed section 269C shall be acquired for the purpose of the Union under the Land Acquisition Act, 1894 or any

corresponding law unless the time for initiation of proceedings for acquisition of such property under new Chapter XXA has expired or unless the competent authority has declared that the property will not be acquired under the said Chapter.

Section 269P.—This new section provides that the provisions of new Chapter XXA will not extend to the State of Jammu and Kashmir.

Clause 5 seeks to insert a new section 281A in the Income-tax Act. Under the new section, where any property is held *benami*, any person claiming to be the real owner of such property shall not be entitled to enforce his claim in a court of law unless the income, if any, from such property has been disclosed in any return of income furnished by the claimant or such property has been disclosed in any return of net wealth furnished by the claimant under the Wealth-tax Act or the claimant has given notice to the Income-tax Officer in such form and containing such particulars in respect of the property as may be prescribed. The Income-tax Officer will furnish relevant extracts from the return of income or net wealth or a certified copy of any notice given by the claimant on receipt of an application from him. Such extract or copy is to be granted within 14 days from the date of the application.

The new section will not however apply to any suit of a value not exceeding Rs. 2,000 which is tried by a Court of Small Causes or by any court invested with the jurisdiction of a Court of Small Causes in the exercise of such jurisdiction.

Clause 6 seeks to amend section 2 of the Wealth-tax Act, 1957. Sub-clause (a) seeks to insert a new clause (oaa) in section 2 of the Wealth-tax Act to define the term "registered valuer" to be a person registered as a valuer under the procedure laid down in new section 34AB proposed to be inserted in that Act under clause 13 of the Bill.

The amendment in sub-clause (b) seeks to replace the existing definition of "valuer" in clause (r) of section 2 by a definition of "Valuation Officer". Under the proposed provision, "Valuation Officer" means a person appointed as a Valuation Officer under new section 12A proposed to be inserted under clause 8 of the Bill, and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer.

Clause 7 seeks to insert a new sub-section (3) in section 7 of the Wealth-tax Act, relating to the manner of determining the value of assets for the purposes of that Act, so as to provide that where the valuation of any asset is referred by the Wealth-tax Officer to the Valuation Officer under new section 16A proposed to be inserted under clause 9 of the Bill, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.

Clause 8 seeks to insert a new section 12A in the Wealth-tax Act to enable the Central Government to appoint as many Valuation Officers as it thinks fit and the wealth-tax authorities to appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the execution of their functions.

Clause 9 seeks to insert a new section 16A in the Wealth-tax Act providing for reference to Valuation Officers. Under the new section, the

Wealth-tax Officer may, for the purpose of making an assessment, refer the valuation of any asset to a Valuation Officer. The Valuation Officer will then proceed to value the asset after giving notice to the assessee to produce or cause to be produced before him such accounts, records or other documents as the Valuation Officer may require. Where the Valuation Officer is of the opinion that the value of the asset has been correctly declared in the return made by the assessee, he will pass an order to that effect. Where, however the Valuation Officer estimates that the value of an asset is higher than the value declared in the return of net wealth made by the assessee or where the asset is not disclosed or the value of the asset is not declared in such return, the Valuation Officer is required to intimate to the assessee the value which he proposes to estimate and give the assessee an opportunity to state his objections, if any, to the proposed valuation. Thereafter, the Valuation Officer is required to consider such objections and also give the assessee a hearing before finalising the valuation. The order of the Valuation Officer will have to be in writing and a copy of such order is to be sent to the Wealth-tax Officer and also to the assessee. It is further being provided that on receipt of the order of the Valuation Officer, the Wealth-tax Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer.

Clause 10 seeks to amend section 23 of the Wealth-tax Act, relating to appeals to the Appellate Assistant Commissioner from the orders of the Wealth-tax Officer.

The amendment in sub-clause (a) provides specifically for an appeal to the Appellate Assistant Commissioner against an order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under that section, or an order of the Valuation Officer imposing a fine under section 37(2) on any person for omitting to attend or produce books of account, etc. The amendment in sub-clause (b) seeks to insert a new sub-section (3A) in section 23 to the effect that where the valuation of any asset is objected to in an appeal against the assessment made by the Wealth-tax Officer and the value of the asset was estimated by the Valuation Officer, the Appellate Assistant Commissioner shall give a hearing to the Valuation Officer. In any other case, if so required by the Wealth-tax Officer, the Appellate Assistant Commissioner will give a hearing to a Valuation Officer nominated by the Wealth-tax Officer.

The amendment in sub-clause (c) seeks to amend sub-section (4) of section 23 in order to provide that before disposing of an appeal, the Appellate Assistant Commissioner may make such further enquiry as he deems fit or cause further enquiry to be made by the Wealth-tax Officer or, as the case may be, the Valuation Officer.

Clause 11 seeks to amend section 24 of the Wealth-tax Act relating to appeals to the Appellate Tribunal from the orders of the Appellate Assistant Commissioner.

The amendment in sub-clause (a) seeks to insert a proviso (before the existing proviso) in sub-section (5) of section 24. Under the new proviso, when the valuation of any asset is in dispute before the Tribunal and the valuation of the asset was made by a Valuation Officer, the Appellate Tribunal shall give a hearing also to the Valuation Officer. In any other

case, if so required by the Wealth-tax Officer, the Tribunal shall give a hearing to a Valuation Officer nominated by the Wealth-tax Officer.

The amendment in sub-clause (b) seeks to omit sub-sections (6), (7), (8), (8A) and (8B) of section 24. These sub-sections provide for a reference of the disputed value of any asset to the arbitration of two valuers at the stage of appeal before the Appellate Tribunal and for matters incidental thereto. This procedure is proposed to be discontinued in the light of the amendments proposed under clause 9 of the Bill for associating the Valuation Officer with the valuation of assets at the stage of assessment.

Clause 12 seeks to amend section 26 of the Wealth-tax Act relating to appeal to the Appellate Tribunal from orders of enhancement by the Commissioner. The proposed amendment is consequential to the amendment of section 24 under clause 11 of the Bill.

Clause 13 seeks to insert a new Chapter VIIB in the Wealth-tax Act, relating to registered valuers. The new Chapter contains four sections from section 34AA to section 34AD.

Under new section 34AA, it is being provided that any assessee who is entitled to or required to attend before any wealth-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset may, at his option and expense, be assisted by a registered valuer.

New section 34AB sets forth the procedure for registration of valuers. Under sub-section (1), the Central Board of Direct Taxes shall maintain a register to be called the Register of Valuers, in which the names and addresses of persons registered as valuers will be entered. Sub-section (2) provides that any person who possesses the requisite qualifications prescribed in this behalf in the Wealth-tax Rules may apply to the Board in a form to be prescribed for the purpose, for being registered as a valuer. Such qualifications may be prescribed differently for valuers of different classes of assets. Sub-section (3) provides that an application to the Board by a person seeking registration as a valuer shall be verified in the manner prescribed in the Wealth-tax Rules and shall be accompanied by such fees as may be prescribed in the said Rules. The application shall contain a declaration to the effect that the applicant will (i) make an impartial and true valuation of any asset which he may be required to value; (ii) furnish a report on such valuation in the form to be prescribed in the Wealth-tax Rules; (iii) charge fees at a rate not exceeding the rate or rates prescribed by Rules in this behalf; and (iv) not undertake valuation of any asset in which he has a direct or indirect interest. Sub-section (4) lays down that the report of valuation of any asset by a registered valuer shall be in the form to be prescribed under the Rules and be verified in the manner prescribed under the said Rules.

New section 34AC seeks to place certain restrictions on practice as a registered valuer. Under sub-section (1) no person either alone or in partnership with any other person, shall be entitled to practise, describe or hold himself out, as a registered valuer, or permit himself to be so described or held out unless he is registered as a valuer or, in the case of a partnership, unless all the partners are registered as valuers. Sub-section (2) provides that it shall not be lawful for a company or other corporate body to practise, describe itself or hold itself out as registered valuers or permit itself to be so described or held out.

New section 34AD provides for the removal of the names of valuers from the Register and also for their restoration. Under sub-section (1), it is being provided that the Board may remove the name of any person from the Register of Valuers where it is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it deems fit to make, (i) that his name has been entered in the Register by error or on account of a misrepresentation or suppression of material fact; or (ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which, in the opinion of the Board, renders him unfit to be kept on the Register. Sub-section (2) empowers the Board, on application and on sufficient cause being shown, to restore to the Register the name of any person so removed.

Clause 14 seeks to amend section 35 of the Wealth-tax Act, relating to rectification of mistakes. Under sub-clause (a), the Valuation Officer will have the power to amend any order passed by him under the proposed section 16A being inserted under clause 9 of the Bill. Such an amendment may be made by the Valuation Officer either of his own motion or when the mistake is brought to his notice by the assessee or by the Wealth-tax Officer. Where the amendment has the effect of enhancing the value of any asset, the Valuation Officer will be required to notify the assessee of his intention to make the amendment and give the assessee a reasonable opportunity of being heard. The order of amendment under this section will have to be in writing and copies thereof will have to be sent to the assessee and to the Wealth-tax Officer. The latter will, thereafter, be required to make the necessary amendment to the assessment order so as to give effect to the change made in the valuation of the asset. As in the case of amendment of orders passed by other wealth-tax authorities, the power to amend an order of the Valuation Officer can also be exercised only up to four years from the date on which the order was first passed. The consequential amendment to the order of assessment may be made by the Wealth-tax Officer at any time before the expiry of one year from the date of the Valuation Officer's order under this section.

Clause 15 seeks to insert a new sub-section (2B) in the Wealth-tax Act relating to prosecutions for offences under that Act, to the effect that if any registered valuer makes a statement in a verification mentioned in new section 34AB proposed to be inserted under clause 13 of the Bill, which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months or with fine.

Clause 16 seeks to amend section 37 of the Wealth-tax Act relating to power to take evidence on oath, etc.

Under the amendment in sub-section (a), the Valuation Officer is being included in the categories of wealth-tax authorities who have the power to enforce the attendance of any person, examine him on oath or affirmation, compel the production of books of account and other documents and similar matters, for purposes of the Wealth-tax Act.

The amendment in sub-clause (b) seeks to empower the Valuation Officer to impound any books of account or other documents and also to retain in his custody such books and documents after obtaining the prior approval of the Commissioner for the purpose, in the same manner as a Wealth-tax Officer is empowered to do under the present provisions.

Clause 17 seeks to insert a new section 38A in the Wealth-tax Act to confer certain powers on the Valuation Officer and any overseer, surveyor or assessor authorised by him in this behalf. Subject to the rules made under the Act, each of them will have the power to enter any land within the limits of his jurisdiction, or any building or other place occupied by a person in connection with whose assessment a reference under new section 16A (proposed to be inserted under clause 9 of the Bill) has been made to a Valuation Officer, or to inspect any asset in respect of which a reference has been made to him under that section, and require any person in charge of or in occupation or possession of such land, building or other place or asset to afford him the necessary facilities to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating thereto. The power to enter any building or other place or to inspect any asset is subject to the condition that the person concerned should be given (unless such person does not insist) at least two days notice in writing of the intention to do so. If the person who is required to afford such facility refuses or evades to do so, the Valuation Officer shall have all the powers under section 37(1) and (2) for enforcing compliance.

Clause 18 seeks to amend section 46 of the Wealth-tax Act relating to the powers of the Central Board of Direct Taxes to make rules for carrying out the purposes of that Act. Under the amendment, the Board is being empowered specifically to make rules specifying the areas within which the Valuation Officers may exercise jurisdiction, and for the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers of entry, survey and inspection.

Clause 19 seeks to omit the definition of the term "valuer" contained in clause (xxv) of section 2 of the Gift-tax Act.

Clause 20 seeks to amend section 15 of the Gift-tax Act relating to assessment so as to insert a new sub-section (6) in that section. Under the new sub-section (6), the Gift-tax Officer may, for the purpose of making an assessment refer to the Valuation Officer the valuation of any property transferred by way of gift. The sub-section further provides that where any such reference is made, the corresponding provisions in sections 16A, 23, 24, 34AA, 35 and 37 of the Wealth-tax Act (proposed to be amended under clauses 9, 10, 11, 13, 14 and 16 of the Bill) shall, with necessary modifications apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under section 16A(1) of that Act.

Clause 21 seeks to amend section 23 of the Gift-tax Act, relating to appeals to the Appellate Tribunal, so as to omit sub-sections (6), (7) and (8) of that section. Accordingly, the procedure for reference of the disputed value of any asset to the arbitration of two valuers at the stage of appeal to the Appellate Tribunal in gift-tax matters is being done away with.

Clause 22 seeks to amend section 25 of the Gift-tax Act relating to appeals to the Appellate Tribunal from orders of enhancement by the Commissioner. The amendment is consequential to the amendment of section 23 of the Gift-tax Act under clause 21 of the Bill.

Clause 23 seeks to preerve the procedure for reference of the disputed value of any asset to the arbitration of two valuers at the stage of appeal to the Appellate Tribunal in respect of pending applications for such references and pending references to arbitrators under the Income-tax Act, the Wealth-tax Act, and the Gift-tax Act.

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to insert a Chapter consisting of sixteen new sections—269A to 269P—in the Income-tax Act, 1961, to provide for the acquisition of immovable properties in certain cases of transfer to counteract evasion of tax. The implementation of the provisions of this Chapter will call for an administrative organisation which will be adequate to locate cases of understatement of the values, make proper valuations of the properties and take action for the acquisition of the property promptly and in a judicious manner after following the procedure being laid down in this behalf. It is envisaged that the organisation would comprise a sufficient number of Assistant Commissioners of Income-tax (who are the competent authorities for exercising the power of acquisition under the proposed Chapter), Valuation Officers (corresponding to Senior Income-tax Officers, Class I) and Assistant Valuation Officers (corresponding to Junior Income-tax Officers, Class I) for valuing the properties and Commissioners of Income-tax for according approval to the orders of acquisition which the competent authorities propose to make. New section 269B provides for authorising Assistant Commissioners of Income-tax to function as competent authorities; new section 269F(6) provides for approval of the Commissioner to a proposed order of acquisition by a competent authority. The Valuation Officers appointed under the Wealth-tax Act (*vide* new section 269K and clause 8 of the Bill) will assist the competent authorities.

2. Compensation for the properties acquired under the new Chapter is to be paid in an amount equal to the value declared in the instrument of transfer *plus* a solatium of 15 per cent., thereof (*vide* new section 269-I). In cases of delay in payment of compensation, interest is payable at 9 per cent per annum under section 269J(4). For payment of compensation for the properties acquired, it will be necessary to place sufficient funds at the disposal of the competent authorities.

3. Under new section 269A(c) power is taken to appoint a special judicial officer to function as a court for the purposes of the new Chapter; but resort will be had to this power only when the work cannot be done conveniently through existing principal civil courts of original jurisdiction.

4. Clause 8 of the Bill seeks to strengthen the Valuation Department, which is at present functioning under the Central Board of Direct Taxes on a limited basis, by providing for the appointment of Regional Valuation Officers (corresponding to Commissioners of Income-tax), District Valuation Officers (corresponding to Assistant Commissioners of Income-tax), Valuation Officers (corresponding to Senior Income-tax Officers, Class I) and Assistant Valuation Officers (corresponding to Junior Income-tax Officers, Class I) with a view to making prompt and proper valuation of immovable properties for purposes of assessments under the Wealth-tax Act as also under the Income-tax Act (*vide* clause 2) and the Gift-tax Act (*vide* clause 20).

5 The administrative expenditure likely to be involved in the initial stages in implementing the provisions mentioned in the preceding paragraphs is estimated to be of the order of Rs. 1.00 crore for a full year as

indicated in the following chart, besides which, a revolving fund of Rs. 5.00 crores will be placed at the disposal of the competent authorities out of which compensation (including interest, if any) could be paid for the properties acquired under the proposed law.

A—RECURRING EXPENDITURE

	<i>Rs. Lakhs</i>
I. Pay and allowances of offices	30.00
II. Pay and allowances of staff	28.00
III. Incidental expenses (including Class IV staff)	20.00
IV. Accommodation for offices	15.00
TOTAL	93.00

B—NON-RECURRING EXPENDITURE

V. Furniture, office equipment, etc.	7.00
TOTAL	100.00
VI. Revolving fund for payment of compensation for properties acquired	500.00

MEMORANDUM REGARDING DELEGATED LEGISLATION

I. Amendments to the Income-tax Act, 1961.

New Chapter XXA which clause 4 of the Bill seeks to insert in the Income-tax Act, 1961, contains certain sections which empower the Central Board of Direct Taxes to make rules. These are briefly explained below:—

(i) Sub-section (2) of new section 269B provides for rules being made by the Board for determining as to which of several competent authorities within the local limits of whose jurisdiction different parts of the same immovable property are situate, will have jurisdiction under the Chapter in respect of such property.

(ii) Clause (b) of the second proviso to sub-section (2) of new section 269D empowers the Board to specify by rules the manner in which the substance of a notice by which proceedings for acquisition of any immovable property are initiated, should be made known in the locality in which the property is situate.

(iii) Sub-section (2) of new section 269G empowers the Board to prescribe by rules the form in which an appeal against an order for acquisition shall be presented and the manner in which such appeal shall be verified.

(iv) Sub-section (1) of new section 269N empowers the Board to prescribe by rules the form in which statements in respect of transfers of immovable properties shall be furnished to registering officers under that sub-section, the manner in which such statements are to be verified and the particulars which shall be set forth therein.

2. Clause 5 of the Bill seeks to introduce a new section 281A in the Income-tax Act. Clause (c) of sub-section (1) of the new section empowers the Board to prescribe by rules the form of, and the particulars to be contained in, notices which may be given under the clause. Sub-section (2) of the said new section 281A empowers the Board to frame rules to prescribe the form in which an application may be made under the sub-section and the fees to be paid in respect of such application.

II. Amendments to the Wealth-tax Act, 1957.

3. Clause 13 of the Bill seeks to insert a new Chapter VIIB in the Wealth-tax Act which provides for registered valuers. New section 34AB contained in this Chapter empowers the Board to specify by rules the qualifications a person shall possess for making an application to the Board for being registered as a valuer. The form in which such applications should be made, the manner in which the applications are to be verified and the fees to be paid therefor are required to be specified by the Board by rules. The form in which a registered valuer should make his report and the manner in which such report is to be verified are also to be prescribed by the Board in the rules to be made in this behalf.

4. Clause 17 of the Bill seeks to insert new section 38A in the Wealth-tax Act. The new section deals with powers of Valuation Officers and

certain officials authorised by them to enter any land or building or inspect any asset for the purposes of valuation and provides *inter alia* that such entry or inspection should be made at such reasonable times as may be prescribed by rules made by the Board.

5. Clause 18 of the Bill seeks to amend section 46 of the Wealth-tax Act so as to enable the Board to frame rules to specify the areas within which Valuation Officers may exercise jurisdiction and the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their power of entry and inspection, etc., under new section 38A of the Wealth-tax Act.

6. The matters in respect of which the Board may make rules under the aforementioned amendments to the Income-tax Act, 1961, and the Wealth-tax Act, 1957, are all matters of form, detail or procedure which it is not practicable to provide in the Bill itself. The delegation of legislative powers is thus of a normal character.

S. L. SHAKDHER,
Secretary.

